

Attorney Docket No.: 1340-1-021CIP2 (SJ-0015)  
Inventors: Sorrentino and Schuetz  
Serial No.: 09/866,866  
Filing Date: May 29, 2001  
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REMARKS

Claims 16-17 and 21-28 are pending in this application. Claims 16-17 and 21-28 have been rejected. No new matter has been added by this amendment. Reconsideration is respectfully requested.

The Examiner has recited that claims 16, 17, 21, 22, 25 and 26 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ross et al. (hereinafter Ross) in view of Niman et al. (hereinafter Niman). Claims 16, 17 and 21-28 are further rejected in view of Godfrey et al.

The Examiner suggests the amendments and remarks filed on October 21, 2003, in light of the office action dated May 21, 2003 and further in light of the Interview with the Examiner on August 18, 2003, fail to place the application in condition for allowance.

Specifically, the Examiner states that the Declaration filed with the Office action on October 21, 2002 was not considered. The Examiner suggests that the Applicants filed a defective (unsigned) Declaration which was drawn to newly raised issues.

Applicants respectfully disagree with this Examiner's disposition of this application and respectfully request

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reconsideration in view of the following remarks and recitation of events.

First, as recited on page 5 of Applicants response filed on October 21, 2003, and further in accordance with the Examiners' suggestions to address concerns raised in the Final Rejection, the unexecuted Declaration was provided on October 21, 2003 with the understanding that the executed Declaration was to be filed as soon as practicable. This submission of the unexecuted Declaration was done due to the short time frame for submission of the response, and in an attempt to rapidly respond to the Examiner's Interview suggestions.

The unexecuted Declaration was expeditiously perfected by the filing of an executed Declaration on October 28, 2003, well in advance of the mailing date of the Examiner's Advisory Action dated December 5, 2003. The executed declaration was received in the US Patent and Trademark Office on October 28, 2003 as evidenced by the attached return postcard.

Further, the Examiner has recited that the Declaration is drawn to issues not raised in the final Office Action. This is simply not true. The Declaration was prepared based upon the Interview with the Examiner Li, Examiner Reynolds, the inventors, and their patent counsel on August 18, 2003. As evidenced by the

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Interview summary prepared by Examiner Li, the Examiners had suggested that the Applicants should focus on overcoming the 103 rejection by presenting evidence of the degree of predictability (expectation of success) when obtaining the claimed antibodies using the method taught in the cited art of record. In accordance with the Examiners' direction, the executed Declaration at paragraph 3 refers **only** to the degree of predictability of using available methods as of the filing date of the application. The Declaration then further distinguishes the teachings of the prior art references Ross and Niman as recited on page 6 and further throughout the Examiner's final Office Action, see Declaration at paragraphs 4, 5, and 6. According, the Declaration addresses **only** the issues raised by the Final Rejection.

Applicants respectfully request reconsideration and allowance of the pending claims based upon the previously filed Executed Declaration and the corresponding remarks.

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#### CONCLUSION

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,

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